

Case 9:19-cv-00004-MAC-CLS Document 45 Filed 03/11/24 Page 1 of 2 PageID #: 185

EASTERN DISTRICT OF TEXAS

MICHEAL JERRIAL IBENYENWA,

Plaintiff,

versus

JERRY L. WILSON, *et al.*,

Defendants.

CIVIL ACTION NO. 9:19-CV-4

MEMORANDUM OPINION AND ORDER

Plaintiff Micheal Jerrial Ibenyenwa, an inmate confined at the Polunsky Unit, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983 against Jerry L. Wilson and Randy L. O’Neal.

Discussion

On February 23, 2022, the court granted the defendants' motion to dismiss based on plaintiff's failure to exhaust administrative remedies. Accordingly, the court entered a final judgment dismissing the action without prejudice.

Plaintiff filed a motion for reconsideration of the final judgment. The motion was denied on March 16, 2023. Plaintiff has now filed a motion to reopen case pursuant to Federal Rule of Civil Procedure 60(b)(1) (#42) and a motion for leave to file supplemental addendum. This memorandum considers such motions.

Analysis

Rule 60(b), FED. R. CIV. P., provides in pertinent part:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud ..., misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Plaintiff continues to argue the merits of his lawsuit. Plaintiff was afforded *de novo* review as set forth in the court's memorandum order overruling his objections and adopting the report of the magistrate judge. Additionally, the court considered plaintiff's arguments in his previous motion to alter or amend judgment. After careful consideration of plaintiff's motion to reopen case, the court is of the opinion that plaintiff's motion fails to set forth a meritorious ground warranting relief from the judgment. Accordingly, plaintiff's motion should be denied.

ORDER

For the reasons set forth above, plaintiff's motion to reopen case lacks merit and should be denied. It is

ORDERED that plaintiff's motion to reopen case (#42) is **DENIED**. It is further

ORDERED that plaintiff's motion for leave to file supplemental addendum (#43) is **DENIED**.

SIGNED at Beaumont, Texas, this 11th day of March, 2024.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE